v. *City of Woburn,* 176 Mass. 520, 57 N. E. 1008; *Loan* v. *City of Boston,* 106 Mass. 450; *Marvin* v. *City of New Bedford,* 158 Mass. 464, 33 N. E. 605; *Moroney* v. *City of N. Y.,* 117 App. Div. 843, 97 N. Y. Supp. 642, 103 N. Y. Supp. 1135, aff. 190 N. Y. 560, 83 N. E. 1128; *Tabor* v. *City of St. Paul,* 36 Minn. 188, 30 N. W. 765; *Kendall* v. *City of Albia,* 73 Iowa 241, 34 N. W. 833; *Glantz* v. *City of South Bend,* 106 Ind. 305, 6 N. E. 632. An opinion of the court in the principal case as to the triviality of an obstruction of this kind, has apparently not appealed to other courts, in some similar cases. In *Redford* v. *City of Woburn,* cited supra, the question as to the nature of a similar water-box was held to be properly before the jury and the obstruction was there found to be dangerous. Such a finding the court held not to be unwarranted. This case differs, it is true, from the principal case in that in the latter the box was about four and one-half feet from the center of the sidewalk while in the former the box was in the middle of the sidewalk, both however were in the direct path of pedestrians. The *Marrony* case cited above, affirmed January 7, 1908, by the New York Court of Appeals, reviews the New York cases on the subject of the submission of the question as to the nature of irregularities in sidewalks to the jury and although this case is not in accord with prior New York decisions it is nevertheless the most recent case, on the point herein discussed, in that state.

MUNICIPAL CORPORATIONS—USE OF STREETS—COMPENSATION FOR USE OF SUBWAYS BY ADJOINING OWNER.—The complainant corporation filed its bill in equity against the city of Chicago to enjoin the city from enforcing the provisions of an ordinance providing that abutting land owners must pay a stated compensation for the use of space under a public street. It appeared that complainant's property was bounded by two streets. The fee of one street was in the city; while as to the other street it appeared that the fee of the portion of the street so used was in the complainant. *Held,* as to the street the fee of which was in the complainant the injunction was properly granted; that as to the other street the bill was properly dismissed, and the fact that the city had issued a permit to erect a building adjacent to the said street, according to plans providing for subways under the street did not estop the city from requiring the owner to pay for the use of such subways. *Tacoma Safety Deposit Co.* v. *City of Chicago* (1910), — Ill. —, 93 N. E. 153.

A city may by contract confer upon a private individual or corporation the right to use space beneath the public streets of the city. *City of Chicago* v. *Norton Milling Co.,* 196 Ill. 580, 63 N. E. 1043; *Gregsten* v. *City of Chicago,* 145 Ill. 451, 34 N. E. 426, 36 Am. St. Rep. 496; *Clifford* v. *Dam,* 44 N. Y. Super. Ct. (12 Jones & S.) 391, affirmed (1880) 81 N. Y. 52; *Babbage* v. *Powers,* 54 Hun 635, 7 N. Y. Supp. 306, affirmed (1891) 130 N. Y. 281, 29 N. E. 132, 14 L. R. A. 398. It is also recognized that a city may impose conditions on an abutter's excavating an area under a sidewalk, and forbid the same until they be complied with. *Davis* v. *City of Clinton,* 50 Iowa 585; *Clifford* v. *Dam,* supra. There is, therefore, a fair inference that a city has absolute control over its public streets and may impose conditions and stipulations upon the use of any portion of them

by private individuals or corporations. *Town of La Grange* v. *Overstreet* (1910), — Ky. —, 132 S. W. 169. Cases opposing the doctrine of the *Gregston* case, above cited, may be found however—see *Gordon* v. *Peltzer*, 56 Mo. App. 599; *Adams* v. *Fletcher*, 17 R. I. 137; *Fisher* v. *Thirkell*, 21 Mich. 1. The court distinguishes the principal case from the *Gregston* case by holding that in the latter contractual relations binding on the parties sufficient to create an estoppel on the part of the city existed, while in the former no such condition was present.

NEGLIGENCE—COMPARATIVE NEGLIGENCE. — Deceased, a section foreman, while going to work on a hand car on a dark, foggy morning, was struck and killed by a locomotive and caboose running as an irregular train ahead of a passenger train of which decedent had notice. The engineer was running at the usual speed, and although his headlight had been extinguished, he was not aware of the fact and it was not feasible to tell from his position whether it was burning or not. It also appeared that the engineer failed to sound his whistle at the highway or mile-post as required. *Held*, (WINSLOW, C. J., and SIEBECKER, J., dissenting) that the engineer's negligence was not gross, as compared to that of decedent, so as to entitle plaintiff to recover, notwithstanding decedent's contributory negligence, under the doctrine of comparative negligence. *Dohr* v. *Wisconsin Central Ry. Co.* (1911), — Wis. —, 129 N. W. 252.

The doctrine of comparative negligence has been stated as follows: "The degrees of negligence must be measured and considered, and whenever it shall appear that the plaintiff's negligence is comparatively slight and that of the defendant gross, he should not be deprived of his action." *Galena Ry.* v. *Jacobs*, 20 Ill. 478. This doctrine was made part of the law of Wisconsin by statute in 1907, and a similar doctrine has been enunciated in the statutes of Florida and Georgia. *Fla. So. Ry. Co.* v. *Hirst*, 30 Fla. 1, 11 South. 506, 32 Am. St. Rep. 17, 16 L. R. A. 631; *Ala. etc. Ry. Co.* v. *Coggins*, 88 Fed. 455, 32 C. C. A. 1; *Atl. Coast Line Ry. Co.* v. *Taylor*, 54 S. E. 622, 125 Ga. 454. It was adopted in Kansas in *Union Pac. Ry.* v. *Rollins*, 5 Kan. 167, but repudiated in *Atchison etc. Ry.* v. *Henry*, 57 Kan. 154, 45 Pac. 576, and has been rejected in Illinois, the state of its origin, where, too, it had its greatest development. *Macon* v. *Holcomb*, 205 Ill. 643, 69 N. E. 79. Except where recognized by statute it probably does not obtain now in any jurisdiction. The dissenting judges in the principal case took the view that there was ample evidence to warrant submitting to the jury the question of the quantum or extent of the negligence on each side; the majority of the court holding that that question should not have been left to the jury since there was no evidence from which a court or jury could say that the negligence of the injured was slighter than that of the injurer.

PRINCIPAL AND AGENT—KNOWLEDGE OF THE ATTORNEY—EFFECT ON CLIENT. —A wife devised a life estate to her husband and remainder to her son who was her executor. The son purchased a judgment against the father, and then purchased the father's life estate on execution sale. He later mort-